

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MIGUEL ANGEL OVANDO,

Defendant.

MEMORANDUM DECISION AND
ORDER DENYING PETITION FOR
WRIT OF HABEAS CORPUS AD
PROSEQUENDUM

Case No. 2:13-CR-474 TS

This matter is before the Court on Salt Lake City's Ex Parte Petition for Writ of Habeas Corpus Ad Prosequendum.¹ Salt Lake City requests that this Court issue a writ making Defendant Miguel Angel Ovando available to appear before the Salt Lake County Justice Court on August 27, 2013, at 1:30 p.m. Salt Lake City indicates that the Government has agreed to Defendant's appearance before the Salt Lake County Justice Court.

¹Docket No. 9.


“28 U.S.C. § 2241(c)(5) authorizes a United States District Court to issue a writ of habeas corpus ad prosequendum to produce a defendant for trial.”² “The traditional use of the writ has been to bring a defendant in the custody of another sovereign to trial before the court issuing the writ.”³ For this reason, the Tenth Circuit has held that “[i]f a writ of habeas corpus ad prosequendum is to be used to bring [a defendant] to trial in a . . . state court, the writ must issue from that court.”⁴ Based on this precedent, the Court will deny Salt Lake City’s ex parte Petition.

It is therefore

ORDERED that Salt Lake City’s Ex Parte Petition for Writ of Habeas Corpus Ad Prosequendum (Docket No. 9) is DENIED.

DATED August 7, 2013.

BY THE COURT:



TED STEWART
United States District Judge

²*Huston v. State of Kan.*, 390 F.2d 156, 157 (10th Cir. 1968) (citing *Carbo v. United States*, 364 U.S. 611, 612–616 (1961)).

³*Lawrence v. Willingham*, 373 F.2d 731 (10th Cir. 1967) (citing *Lunsford v. Hudspeth*, 126 F.2d 653 (10th Cir. 1942); *Moses v. Kipp*, 232 F.2d 147 (7th Cir. 1956)).

⁴*Id.*; see also *Huston*, 390 F. 3d at 157; *Trigg v. Moseley*, 433 F.2d 364, 367 (10th Cir. 1970).